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Is Gender Separation Bad for Women?

An analysis of the gender separate swimming hours in Swedish public institutions

Hanna O'Connor

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Supervisor: Mats Lundström

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Introduction

In 2015, the Swedish national public television broadcaster (SVT) published the article "Separate swimming hours are the evidence of the power of Islamists" [Own Translation] written by Sara Mohammed, founder of the non-profit organization *Glöm aldrig Pela och Fadime* (Never Forget Pela and Fadime) that works at combatting honour-based violence. The article sparked a debate on gender separate swimming hours practiced in public swimming centres, which, in turn, led to the Equality Ombudsman[1], carrying out an investigation whether the practice violated anti-discriminatory laws. At the core of Mohammed's article lies the concern that special group rights, granted for religious and cultural reasons, becomes the means by which conservative groups can control women and thereby counteract the pursuit of a gender equal society.

Advocates for multiculturalism and special group rights emerged in the 1990's and questioned the assumption of commonality which lies as a fundamental base both for the liberal notion of individual rights, as well as for the communitarian notion of the "common good" (Kymlicka 1996:8a). Granting minority groups exceptions has, however, been criticised. One of the prominent feminist political theorists of the time, Susan Moller Okin (1946-2004), questioned the extent to which special rights can be granted without impinging on the individual rights of women. The debate that erupted in Sweden 2015 illuminates how the work of Okin remains relevant. In the case of Sweden, the debate on multiculturalism has rather been amplified over the last few years due to the increasing inflow of refugees, with 2016 being the year with the most asylums granted in the country's history (SCB, 2018).

It is perhaps also within the discussion on gender and multiculturalism that the liberals commitment to individual rights and diversity are truly put to the test by raising the question of which values should be of primal importance? Additionally, the debate magnifies the core issues raised by Okin, who strongly advocated for the liberal promise of individual rights through a non-differential treatment of women and men famously stating that "A just future would be one without gender. In its social structures and practises, one's sex would have no more relevance than one's eye color or the length of one's toes" (Okin, 1989:171).

[1] Diskrimineringsombudsmannen.

Objectives of essay

Purpose and Research Question

The principal purpose of this study is to analyze the practice of gender separate swimming hours as well as the directives established by the Equality Ombudsman through engaging in a liberal discourse on multiculturalism and feminism and, in particular, through examining the question raised by Okin, *Is multiculturalism bad for women?*[2]. The essay, therefore, has a normative aim of attempting to determine whether gender separate practices in public institutions can be justified or not. Central to this essay is therefore the Equality Ombudsman's assessment and conclusions. The case of gender separate swimming hours in public institutions in Sweden has been chosen, since the practice, accompanying debate and directives, illuminates a fundamental conflict prevalent within liberalism between the potentially conflicting principles of gender equality and special rights of minority groups, in this instance, religious and cultural freedom. The analysis will be realized in three different steps which, albeit interdependent, carry different purposes.

Due to the space limit the chosen theoretical point of reference has been the work of Susan Moller Okin, not only because she is one of the most eminent proponents within the debate on liberalism and multiculturalism but also because her work can provide a more general liberal perspective on multiculturalism. Following an explanation of the methodology set out below, the first section of the analysis therefore reviews the theoretical framework of Okin to recall the theoretical origins and arguments leading up to her involvement in the 90's debate on multiculturalism. The second part of the essay looks at how the gender separate swimming hours have been discussed in the Swedish media as well as at the Equality Ombudsman's directives. The purpose of the third part consists of an analysis of the liberal theoretical perspective and of the different arguments within the debate on gender separate swimming hours. Finally, tentative conclusions are drawn on whether gender separate swimming is in accordance with liberal principles of gender equality and religious and cultural freedom.

[2] To which the title of this essay alludes to.

By using the question *Is multiculturalism bad for women?* as a point of departure and engaging in a discourse on multiculturalism within this essay, the aim is to answer the following research question: *Can gender separate practices in public institutions be justified within a liberal state?*

Methodology

Ideational Analysis

Ideational analysis is an umbrella term for a range of different methods of analysis, which within political sciences have the aim of analyzing and critically examining political ideas. Ideational analysis can, as with other forms of analysis, be descriptive, explanatory or normative. Within the normative aim, there is, in turn, the distinction between internal and external critique. Internal critique refers to a testing of validity where the point of reference is the theory itself, whereby the coherence of the principles and values expressed in the theory are examined (Beckman, 2005:73-74). External critique, instead, might use a normative stance or consider values, that, although not expressed in the theory, may affect the theory's validity (Ibid:75). However, despite the need to differentiate between these objectives, it does not mean that they cannot be combined (Ibid:9-14). As already mentioned this essay has a normative aim of examining whether gender separate swimming hours can be justified and, in addition, there is also a descriptive aim of analyzing political ideas within the debate of multiculturalism. Within the two aims both internal and external critique will be conducted.

The purpose of descriptive analysis is to provide systematic and comprehensive descriptions of a phenomenon, or as in this study, of the content in political ideas. However, this does not simply imply that descriptive analysis should be understood as a reproduction of what is studied but rather as an analytical interpretation that strives to add further understanding to the content which is studied. Moreover, the descriptive analysis entails a comparative dimension, in order to say something about the content of material studied we must measure it in relation to something else (Beckman, 2005:49-53). The analysis of Okin, presented in the first part of this essay, thus, has the aim of distinguishing the main themes within her works and conduct an ideational analysis of her work. The second part of the essay is also descriptive, since the purpose is to identify the central arguments within the Swedish debate on gender separate swimming hours.

The descriptive analysis is often followed by a normative analysis. The purpose of normative analysis, within political sciences, is to assess the viability of political arguments (Beckman, 2005: 56-57). More specifically, the essay will use the method of "reflective equilibrium", which is the

method most commonly used within contemporary moral and political theory, ever since John Rawls applied this method in *A Theory of Justice* (1971). The fundamental idea of reflective equilibrium is to study principles and judgements and to forge lines between the two, in order to reach an equilibrium (Knight, 2017:46).

However, the aim of this essay is not to establish a new set of considered judgements and principles, since the principles that are studied are determined beforehand, namely gender equality and religious and cultural freedom. Hence, this study mainly concerns what can be considered one of the final steps of reaching reflective equilibrium- establishing priority rules. Whenever there are cases where the principles might conflict with each other, it is necessary to establish some rule of priority. This might be an absolute or "lexical" priority, as was the order of principles established by Rawls in order to satisfy his theory of justice (Knight, 2017:59). In summary, the step of interest for this essay concerns the "[...]need to decide on a rule to regulate conflicts between these principles" (2017:62).

The aim of the third part of this essay is therefore to assess the conflicting liberal principles of gender equality and religious and cultural freedom in the case of gender separate swimming hours and critically evaluate the conclusions of the Equality Ombudsman's decision. The third part thus combines a discourse on feminism and multiculturalism within the Swedish debate in order to resolve the question of which principle should be of overriding importance, thereby also proposing a conclusion to the research question of the justification of gender separation in public institutions.

The material that is analyzed are articles and broadcast debates, as well as directives from the Swedish government agency, the Equality Ombudsman.

Part I: The Work of Susan Moller Okin

This section delves into the works of Okin. The focus lies mainly on her theories which are of relevance to this essay, namely her conception of gender and her contribution to the discourse on multiculturalism.

"What are Women for?"

In her early work "Women in Western Political Thought" (1979) Okin shows how the focus of past and contemporary political theorists has not been to answer the question "what are women?" but instead "what are women for?" (Ibid:273). The idea of the "natural" condition of woman, rendering her to the private sphere, upheld by traditional philosophers such as Aristotle and Rousseau, is still enforced, according to Okin, by contemporary judicial systems, as is the case in North America. Through being defined by their functions, as wives and mothers, and thereby confined to the private sphere, women have been deprived of their potential and rights (1979:233-246).

Okin's critique focuses on the works of Plato, Aristoteles, Rousseau and John Stuart Mill. It is particularly interesting how Mill, otherwise famous for his, at the time, radical and progressive view of women, still commits to this view of women's traditional gender role. Mill, who according to Okin "[....]is the only major liberal political philosopher to explicitly apply the principles of liberalism to women" (1979:197) argues from a utilitarian position that the only way to ensure the utilitarian goal of greatest happiness to the greatest number is to emancipate women (Ibid:202). Women's emancipation would not only increase overall happiness, due to the advancement for women, but also because this would mean an improvement for entire mankind (Ibid:203&212). However, what would be of uttermost importance is the added happiness resulting from women gaining individual freedom, a value Mill considered of such significance that "it could justifiably be sacrificed only to the extent that is absolutely necessary for the maintenance of security and social cooperation" (Ibid:211).

Despite Mill's feminist pursuit of liberating women, Okin highlights how he fails to address the inequality resulting from the divisions of labour within the family. Mill prefers the traditional division of work within the family, and assumes that women, even in a liberated state

nevertheless would opt for the role of mothers and caretakers if presented with the option. Consequently, even though Mill stresses the importance of equality within the family, his ignorance towards the implications of the traditional gender roles within the family, resulting in economic dependence due to domestic work being unpaid, limits the extent to which his liberalism can be applied to women (Okin, 1979: 226-230).

Given that the great works within Western political philosophy have ignored, or in the case of Mill, failed to address, the inequalities within the family, Okin contends that any theory that aspires to include women as equal members of society has to be greatly altered (1979:281). She argues, similarly to her predecessor Mary Wollstonecraft and John Stuart Mill, that we cannot know to what extent there is a natural difference between men and women unless we give women equal chances of participation in society, noting however that natural differences do not essentially have any importance anyway, since the evolution of modern society has to a large extent meant the "conquest of nature and superimposition onto it of culture" (Ibid:298).

In the final passage of her work Okin concludes that women, in order to become equal citizens, must be given equal status to men, in all areas of life, as well as being freed from the assumptions of what kind of work is suitable for a woman. Additionally, this requires that the "functionalist perception of their sex is dead"(1979:304). Therefore, already in her early work Okin introduces the subject of gender, initially through criticizing the functionalist view of women confined to the private sphere, leading her to advocating for the dissolvement of gender roles, although this is more comprehensively developed in her later works.

A Theory of Justice and Gender

Although Okin had already in her work outlined above readily critiqued the assumptions concerning women's "nature", the more widely accepted concept of gender emerged during the writing of *Justice, Gender and the Family* (1989). In this work Okin responds both to John Rawls theory of justice, as well as to the communitarian theories of justice of Walzer and McIntyre.

Okin's critique of Rawls is not directed towards his theoretical construct, the original position, which she considers as a perceptive, even "brilliant", idea of deriving justice (Okin, 1989:104*)* but

instead at his incomplete attention to the division of work within the family, with gender rightfully belonging to one of the moral contingencies hidden behind the veil of ignorance. Although Rawls includes the family as a subject for the theory of justice, unlike many political philosophers before him, by claiming that the family constitutes a fundamental base for people's starting point for life, Rawls still does not shed any light on justice between the sexes within the family and how that determines prospects for one's life (Ibid: 92). However, Okin proposes that Rawls' theory of gender can be formed through Rawls' principles.

For example, Okin argues regarding Rawls principle of political justice, "the constitutional process should preserve the equal representation of the original position to the degree that this is practicable"(Okin, 1989:104[3]*)* that, although Rawls is referring to differences resulting from class, the same should be applied for inequalities resulting from the gender system. In order to fulfil a principle of just political representation Okin therefore argues that it is necessary to abolish gender, since the contemporary gender system leads to an unjust division of labour between men and women which cannot enable equal political participation (Ibid:104). According to Okin a liberal theory of justice therefore must strive towards a *genderless* society, enabling people to "develop a more complete *human* personality" (Ibid:107)- an aim that Rawls' theory of justice only partly manages to fulfil. (Okin, 1989:107-108).

In the afterword of the 1992 edition of *Women in Western Political Thought* (1979), Okin refers to her approach more clearly as an "androgynist approach" and argues that many of the differences between men and women are actually socially constructed, which are enforced and maintained by a patriarchal society. This, in turn, means that many of the concepts fundamental to liberalism, such as autonomy and individualism, must be rethought (Ibid:317).

Whilst Okin's critique of Rawls is interesting since it highlights the liberal fundamental base that she herself adheres to, the critique towards the communitarians shows clear similarities to the work she published ten years later in her critique on multiculturalism. Communitarianism evolved as a critique towards the liberal theories of justice, such as the work of John Rawls. The

[3] Quoted from *A Theory of Justice (1971:222).*

advocates of communitarianism meant that the liberal theories paid too little recognition to shared traditions and values, specific to cultures in both time and place.

Okin heavily criticizes the communitarian objection. Her main critique lies within the communitarians inability to address the issue of social domination. In her critique towards two of the prominent communatiaran advocates, Walzer and McIntyre, Okin particularly opposes the idea of relying on "shared understandings" when creating a theory of justice. She contends that the implication of accommodating the idea of "shared understandings" is that, ultimately, only the preferences of the privileged are heard (1989: 43&72).

McIntyre's claim that modern society has become morally incoherent since it adheres to the liberal principles of deriving justice, means detaching oneself from any kind of pre-existing worldview one inhabits. Arguably this is also the entire purpose of Rawls' original position, and which McIntyre opposes, instead proposing that we return to more classical traditions, such as the Homeric and Aristotelian society. Okin's response to McIntyre can be compressed into two main parts. Firstly, Okin criticizes McIntyre for his incomplete solutions of the inequalities resulting from the aforementioned traditional societies, not least concerning the position of women. Secondly, she states that "Specific social roles are the most fundamental assumptions on which traditions build, and their ethics center on the virtues that are necessary for the performance of these roles" (1989:44). The fixed social roles are in the case of gender problematic, since the only way of improving women's position in society is according to Okin, to dissolve gender roles (Ibid:43-60).

The issue is further complicated by the fact that we have very different ways of conceptualizing gender and so the matter of social domination becomes evident, "'Not only do we have no such shared understanding about gender; when meanings *appear* to be shared, they are often the outcome of the domination of some groups over others, the latter being silenced or rendered "incoherent" by the more powerful'" (Okin, 1989:112). Consequently, Okin claims that since most traditions are inherently patriarchal, combined with the inevitability of social domination, women cannot be included as political subjects in the communitarian theories of justice, neither can gender be included in any standard of justice theorized by communitarians (Ibid:43).

Is Multiculturalism Bad for Women?

Okin's *Is Multiculturalism Bad for Women?* (1999) is a contribution to the wider debate of special group rights and multiculturalism within the liberal state and is, in particular, a response to the work of Will Kymlicka. Although multicultural theorists don't necessarily have to be liberals, Kymlicka's theories are firmly anchored in liberalism. It is therefore useful to analyze the question of what commitment liberalism has to tolerance. The following chapter will therefore analyze the relationship between tolerance and liberalism as well as presenting a short summary of Kymlicka's work.

Liberalism and Tolerance

"'What is toleration?', 'What is its justification?' and 'What are its proper limits?'" (1989:3) these are the three central questions raised by Susan Mendus in her work *Toleration and the Limits of Liberalism.* Although Mendus answers to these questions are followed by a more comprehensive analysis than the space limit of this essay allows, we shall review some of her main conclusions.

The question of what toleration amounts to is not unproblematic and someone hoping for a clear-cut definition will be disappointed. According to Mendus the difficulties lie both in the requirements of tolerance - is it a question of simply leaving people be or does it require assistance and nurturing, and in the scope of toleration - what are actually the objects of toleration. Mendus here distinguishes between things that are subject to moral disapproval and things that are not alterable, such as skin colour and ethnicity, since they do no constitute features that we are in control of changing and questions whether intolerance can even be seen as rational when it concerns features that unalterable. According to Mendus talking about tolerance "implies that the thing tolerated can be changed"(1989:16).

Liberalism "[...] begins from a premise of individual diversity: each person has his own unique conception of what makes life worth living and is entitled to pursue that conception to the best of his ability. If this is the guiding belief of liberalism, then the belief itself forces the need for toleration. Justifications of liberalism will, in part, be justifications of that diversity which is valued by a liberal society. But how is this initial premise of liberalism to be converted into a

justification of it?"(1989:75). This is the second question Susan Mendus asks and for which she proposes three ways, three pillars of liberalism, of justifying tolerance: 1) scepticism: the belief that there "is no such thing as moral or religious truth" (Ibid:74), 2), autonomy: the guiding thought that "an autonomous agent is of one who acts in obedience to a law which he has prescribed for himself"(Ibid:53) and 3), neutrality: the principle that "political actions should be neutral between competing conceptions of the good life" (Ibid:79).

Mendus finds scepticism, the belief that there "is no such thing as moral or religious truth" (Mendus, 1989:74), inadequate to justify not only toleration but also liberalism since it denies there being any moral values, effectively showing no commitment to the very values thought to characterize a liberal society, namely freedom and diversity (Ibid:78). She instead suggests that within liberalism the "[...]grounds of toleration are to be found in the requirement that the state shall be neutral, and the limits of toleration are to be found by appeal to the concept of autonomy"(1989:159). We will therefore take a closer look at both of these two concepts.

The concept of neutrality is quite simple in its definition, the demand that the official government acts impartially towards its citizens and the lives they choose to live. However, it becomes more complex in practice, for example, there is a big difference in asking that the reasons for political actions are neutral and in asking that the outcome of political actions are neutral (Mendus, 1989:83). Evaluating if the underlying and overt reasons of political actions are neutral is difficult. In addition, acting impartially does not imply giving precedence to tolerance (Ibid.). As a way of illustrating the difficulties with a consequence-based neutrality Mendus uses the restrictions of trade on Sundays in order for Christians to practice their religion as an example. The restriction might possibly affect the life of non-Christians for the worse, however, the upheaval of the same law would make life more difficult for Christians and therefore neither support a consequence-based neutrality (Mendus,1989:84).

Hence, what neutrality in practice should exist in is not always clear, neither what"[...]liberalism's demand for neutrality" comprises (Ibid:108). Mendus suggests that the reason for why liberals favour neutrality is because they favour an autonomy based liberalism (Ibid:85). The justification for neutrality, Mendus therefore argues, might instead be found in the concept of autonomy (Ibid:108).

The concept of autonomy is most famously associated with Immanuel Kant and his conception of the will, which, if autonomous is motivated by nothing but itself, not "desires, inclinations, or the dictates of others" (Mendus,1989:89). Autonomy thereby, according to Mendus, requires a second layer of freedom, not only the basic negative liberties ("freedom from constraint, coercion and the threat of punishment") but also the liberty from oppression of social norms and customs (Ibid:53). Although Mendus prescribes autonomy the role of being the limiting agent of toleration, she also emphasises that autonomy is by many viewed as the principal justification for tolerance since it is concerned with that people act and choose autonomously, not that they choose correctly. It is therefore embedded in this premise that people must tolerate other people's choices and ways of living, even when they are not perceived as being the correct ones (Ibid:56-57). This is also what is contended in Mendus paraphrasing of Mill: "the way of life is best not because it is best in itself, but because it is chosen"(Ibid:88).

Multiculturalism as an Evolution of Liberalism

Kymlicka claims that the traditional liberal position, as that of Rawls, has somewhat dismissively subsumed minority rights under the wider umbrella of individual rights. This indifference towards the conditions of minority groups, according to Kymlicka, means that important questions, such as distribution of power in government, language rights, territorial boundaries and naturalization policies have been obscured and indirectly silenced. (1996:6b).

In his work *"Multicultural Citizenship: A Liberal Theory of Minority Rights"* (1996) he therefore raises three different ways of how liberal states have worked, and can work, in order to enforce group rights, which in concise terms consist of:

1) "Self-government rights", which can be granted through a redistribution and decentralization of power. (1996:28-31b).

2) "Polyethnic rights", contrary to self-government rights, are measures ensuring greater integration into the society at large. These rights consist both of the enforcement of rights that already exist within individual rights, eliminating the racism that minority groups face, as well as

rights enabling minority cultures to preserve their distinctive cultures and still participate in political and economic life. This can be both through funding of cultural practices, as well as, more controversially, allowing exemptions from laws and regulations that are disadvantaging minority groups on the basis of their cultural traditions. (1996:31-32b). It is the exemptions from laws and regulations that are of special relevance to this essay.

3) "Special representations rights", for example through demanding that seats are reserved in legislative organs to ensure a greater representation of minority groups. (1996:32-33b)

However, Kymlicka suggests that, in order to maintain basic liberal values, there should be limitations to tolerance towards minority groups. He therefore proposes two principles. Firstly, Kymlicka opposes any justification of "internal restrictions". Internal restrictions are cultural practices that inhibit members of the group to make an "informed choice about how to lead one's life"(1996:154b). Examples of these that Kymlicka mentions, are preventing girls from gaining an education or restricting religious freedom, thereby discriminating within the group and violating the very foundations for why liberalist freedoms are put in place in the first place. (Ibid:154b).

Secondly, Kymlicka argues that the liberal state should promote "external protections" for minority groups, with the important premise that the external protection promotes equality between groups and does not allow oppressive means between groups. In summary, external protections constitute rights that protect the vulnerability of the group from the larger society (1996:154b).

Multiculturalism and Women

Okin argues that advocates of special group rights, of whom she directly addresses Kymlicka as a representative, have overlooked two aspects. Firstly, there is a tendency of examining only the differences between groups rather than within minority groups. Thereby, which is the second aspect, effectively ignoring the private sphere and gender power differences within minority groups. (1999:12).

Furthermore, since cultural practices, as Okin states, in particular tend to regulate behaviour and rules concerning the private sphere, such as marriage and inheritance, a singular focus on granting special group rights, ultimately leads to a greater disadvantage for women and girls. Okin argues that most cultures "have as one of their principal aims the control of women by men"(1999:13). However, she claims that there is a distinctive difference between illiberal and liberal cultures, with the latter having established a legislative system granting women and men the same rights (Ibid:16). This claim is an important premise for Okin's argument of the responsibilities the liberal state withholds to ensure women's rights through regulating special group rights.

Moreover, Okin argues that granting minority groups special group rights essentially means siding with those who already are in power, and thereby making vulnerable members of the group, for example reformers, even more vulnerable to the more empowered and traditional advocates in the group. (1999:121).

Consequently, Okin contends that minority group rights risk impeding the feminist project of equality between the sexes and possibly even worsen the situation for women. She therefore instead proposes two solutions that women in minority cultures would benefit from, either that their minority culture disintegrates or, preferably, that their minority culture is encouraged to reform so that it reaches the same levels of sex equality as the majority society. (1999:22-23). Okin therefore proposes that some preconditions should be achieved and discussions held before granting a minority group special group rights (1999:117).

Critique of Susan Moller Okin

The responses to Okin are chosen from the same work where she outlines her critique of Kymlicka, *Is Multiculturalism Bad for Women?* (1999).

Several of Okin's respondents consider that Okin has performed an inadequate analysis of other religions and cultures. Among them we find Bonnie Honig, who argues that Okin simplifies the concept of culture, especially "foreign cultures", reducing other cultures to solely being the means by which patriarchy subordinate women (1999:36).

Marta N. Nussbaum is also critical of the apparent reductionism of religions, by relegating religion to being at the core of patriarchal practices, in Okin's framework. When considering the historical persecution of people practising religions, it is reasonable to have a strong enforcement of rights related to freedom of religion. Nussbaum additionally considers Okin's approach being overtly disrespectful towards religious people, for example through writing about "founding myths" within religions and thereby effectively alienating religious people (1999:105-111).

Sander L. Gilman and Azizah Y. Al-Hibri also criticizes Okin for her "stereotypical views of the "Other"'(1999:42&53). In Gilman's words "she [Okin] fails to see ceremonial acts in her own culture as limiting and abhorrent" (Ibid:57-58). Azizah Y. Al-Hibri claims that this becomes obvious when analyzing Okin's sources, which are all secondary sources and therefore external to the cultures and religions she discusses (Ibid:42).

The critique of how Okin portrays other cultures and religions highlights two important aspects. Firstly, Okin's sources from which she bases her theory in *Is Multiculturalism Bad for Women?* can quite justifiably be questioned since she derives her examples of oppression within cultures mainly from U.S. court cases concerning "cultural defenses" of murder and kidnapping of women. Even though she highlights how cultural defenses have been partially successful (Okin, 1999:18), it is highly doubtful to what extent these cases can represent and portray entire cultures or religions.

Nevertheless, the court cases show the implications of incorporating cultural and religious defences in liberal law. Additionally, the significance of Okin's theories is clearly articulated in her theoretical reasoning, independent of her anecdotal evidence of what other cultures are like. Secondly, whilst the portrayal of "the Other" bears a long and inflammatory history and therefore is important to study the argument of how Okin "[...]fails to see ceremonial acts in her own culture as limiting and abhorrent"(Gilman, 1999:58) is somewhat questionable. Both the work of *Women in Western Political Thought* (1979) and *Justice, Gender and the Family* (1989) concern, as we have seen, the structures in past and present Western culture limiting women. Considering that the previous work of Okin cannot reasonably have passed Gilman unnoticed, one can

question whether what Gilman really means is that Okin does not have the right to critique other cultures, not even cultures within her own society.

Robert Post argues that Okin's liberal feminism is self-defeating. Post means that Okin's claim that women who have chosen a patriarchal tradition or culture are "co-opted" with "false consciousness", results in regulating the kind of gender roles that are acceptable, through using "[...]a particular vision of gender roles defined by measurable standards of equality"(1999:66).

Bhikhu Parekh's response encapsulates the liberal critique in a systematic and comprehensive way and will therefore be summarized in more depth than previous respondents. Parekh's critique to Okin consists of four aspects:

1) Parekh argues that Okin bases her analysis on extreme cases, thereby effectively exemplifying the difficulties with judging other cultures. Okin, for example, mentions the practice of clitorodectemy on children as an oppressive practice, which Parekh also agrees with and considers a violation of human rights. Nonetheless, what if the medical intervention was chosen by a conscientious adult who wanted to do it as rite of choosing to focus on motherhood? Or in the case of polygamy, could it perhaps be legitimized if it were allowed for women as well? Parekh argues that, ultimately, a fundamental value within liberalism is to not interfere in the private lives of adult people who should be free to make their own choices. (1999:71).

2) Related to the first critique, Parekh argues that Okin, through condemning the aforementioned practices and by treating them as incompatible with the fundamentals of liberalism, fails to acknowledge that there are different kinds of liberalism. Liberalism, he claims, does not have a fixed set of fundamental laws, since liberalism refers to "[...]the way a set of values are defined, related, and integrated into a more or less coherent doctrine" (1999:71). Through demanding that other cultures should abide by such fundamentals Okin commits the error of advocating the sort of fundamentalism that she is condemning in other cultures and religions. The issue is also heightened when considering what happens if we impose, not only fundamental values of equality between the sexes but also all the other fundamental values, such as free speech, autonomy and individualism on a minority group, consequently resulting in an intolerance to all groups but the liberal ones (Ibid:72).

3) Parekh's third critique relates to Okin's definition of the equality of sexes which he considers is too extensive to be applicable in any other cultural context than her own. It is also possible to envision that equality could look very different, for example, in societies where women gain greater power with age, gaining even greater power than the men in their society. There is a need for a more nuanced perspective of what equality between women and men can signify. This also relates to how women themselves perceive their situation, although Parekh agrees that there are cases in which women are "brainwashed", it is in the end patronizing to assume that this is the case for all women living in other cultures than the Western one. (1999: 72-73).

4) Parekh also criticizes Okin for the way she treats liberalism as "self-evidently" true, and for how she conceptualizes multiculturalism as something that just has to be contained and regulated within the liberalist framework. Parekh instead welcomes the challenges and critique multiculturalism brings forward in the debate of liberalism. He writes that "Since no culture exhausts the full range of human possibilities, multiculturalism also requires liberalism to become self-critical and to engage in an open-minded dialogue with other doctrines and cultures" (1999: 74). He contends that Okin fails to deliver this perspective and instead treats liberalism as the "hegemonic interlocutor" which sets standards for the non-liberal cultures to live up to. This, in turn, makes the multicultural debate concerned solely with what group rights minority cultures should be granted. Thereby Okin loses the opportunity of multiculturalism being beneficial for women by pluralizing and transforming "[...]the universally hegemonic and boringly homogeneous patriarchal culture" (Ibid:75).

We will further analyze the framework of Okin, Mendus and Kymlicka, as well as the critique directed towards Okin in the discussion which is presented in the third part of this essay.

Part II: The Practice of Gender Separate Swimming Hours in Sweden

This second section is dedicated to review the debate in Sweden of separate swimming hours which led to the decision of the Equality Ombudsman to conduct an assessment of the practice. Firstly, the Swedish media debate is analyzed, and secondly, the directives from the Equality Ombudsman are presented.

The Swedish Media Debate

The debate concerning gender separate swimming hours, resulting in the Equality Ombudsman's attention to the issue, can, as mentioned in the introduction, be said to have emerged with the article written by Sara Mohammed. In the article, Mohammed strongly opposes gender separate swimming hours, concluding that they counteract the very reason why people flee to Sweden- for freedom. She writes that "Separate swimming hours are not simply detail, but part of a systematic and methodical approach employed in the name of Islam" (Mohammad, 2015) [Own translation]. She also claims that religious norms and values are often misogynous and oppressive and act as brainwashing to make the religious norms appear natural and desirable. In addition, she asserts that this oppression is performed by both Islamic women and men. (Mohammad, 2015).

In response to Mohammad's article, Sümeyya Gencoglu, a member of the Green party in Sweden[4], argues, in an article published in the same forum as Mohammad that separate swimming hours are a manifestation of freedom rather than the opposite. "Freedom does not mean only one alternative for everyone. Freedom is the right to make free choices" (Gencoglu, 2015) [Own translation]. With a contrarian view to Mohammad she means that the people who have fled to Sweden might, firstly, have fled for other reasons than the liberal ideology. Secondly, Gencoglu highlights how refugees from eastern Turkey and Bosnia fled from oppression against Muslims in order to live in a free land where they could practice their religion under the right of freedom of religion. Gencoglu also claims that Mohammad, in her fight for *her* vision of freedom, simply is expressing Islamophobic opinions. She questions what authority Mohammad has to control Swedish-Muslim women through limiting their choice. She also writes that what

[4] Miljöpartiet.

the issue highlights is the fight for equal rights for women in society, "[...]whether it is about receiving equal pay or having the choice of bathing separately" (Gencoglu, 2015) [Own translation]. Gencoglu thereby clearly voices the importance of the liberal state granting freedom of religion and a commitment to tolerance, which is surprisingly absent in the ensuing debate.

An exception is Lena Andersson, author and journalist, who argues that the perception of tolerance has undergone a problematic transformation. Albeit making a sharp distinction between public and private institutions, Andersson means that tolerance and inclusiveness towards all people, a core value within liberalism, is today perceived as intolerance towards people opposing that same liberal inclusiveness. "[...]liberalism is not about being able to do as one pleases. It is a question to a large degree about what one should not do to others. What one cannot do is demand that others agree to whatever I do. Tolerance means respecting differences, whilst demanding that others should change in order for me to practice my own individuality is intolerance."(Andersson, 2016) [Own translation].

The aforementioned debate sparked responses among the political parties in Sweden, establishing the political significance of the conflict[5]. The minister of culture and democracy, Alice Bah Kuhnke, member of the same party as Sümeyya Gencoglu, the Green party, opposed the idea of gender separate swimming hours. Bah Kuhnke, albeit recognizing that there is little possibility of reaching a unified opinion within the party, clearly sees the practice as counterproductive to the pursuit of gender equality (Svensson, 2016), thereby giving importance to non-differential treatment rather than religious tolerance.

Gulan Avci, member of parliament for the Liberal party[6] and chairperson for the party's women's association, strongly opposed the Equality Ombudsman's decision. Avci argues that the guiding principle of the law should be non-differential treatment between the sexes, in adherence with the secular society that Sweden is, and that the exception of this law established in the Equality Ombudsman's directives is misguided. Consequently, she claims it means granting power to religious fundamentalism. Referring to the liberty of freedom of religion, Avci states

[5] For reasons of space and relevance not all political parties have been included in the analysis and it should also be noted that not all political parties engaged in the debate, such as was the case with the then governing Social Democratic party (Socialdemokraterna).
[6] Liberalerna.

that not all practices and traditions are to be tolerated. Similarly to Okin she states that "Religion and faith can be, and are, for many something positive, but religion is also in its most conservative form patriarchal and oppresses principally women and girls" (Avci, 2016) [Own translation]. Avci is also supported in her opinion by her party leader Jan Björklund who claimed that allowing gender separate swimming hours essentially means conforming to patriarchal structures (Björklund, 2016).

It is curious to note however, as does Gudrun Schyman, previous party leader of the extra-parliamentary Feminist party (F!), that the Liberal party opposed the gender separate swimming hours whilst having a women's association themselves. Schyman defended the gender separate practice, stating that feminist movements have a long history of using separatism as a strategy through creating a room of one's own, where women are liberated from men's techniques of oppression. She argued that the Liberal party are hypocrites when allowing separate associations for white women in the Liberal party, but not for racially stigmatized women in the suburbs, where many of the swimming centres discussed are located. Schyman therefore argued that swimming centres should allow gender separate hours in order to grant immigrant women the opportunity and time to "conquer individual rights" and to provide immigrant women with the space to "together and on their own terms gain the knowledge that will give them the power to change the patriarchal structures that are limiting their freedom today" (Schyman, 2016) [Own translation].

In a broadcast debate between Gulan Avci and Gudrun Schyman, Schyman voiced an argument commonly heard throughout the debate from people advocating gender separate swimming hours, namely that having women bring their children to the swimming centre, who would have otherwise not done so, is an important investment in the future generation and most importantly, saves lives (2016:06:42-07:13). Mirre Malm, a local politician of the Left party[7], used the increasing numbers of near drownings, where children of immigrants are specifically affected, as an argument for why the extra scheduled gender separate swimming hours are necessary (Expressen TV, 2015:03:18-03:43). She argued that "It is therefore not simply a feminist question [...]but a question of needing swimming centres that are available for everyone" (SVT, Malm,

[7] Vänsterpartiet.

2015:03:54-04:04) [Own translation]. Further, Elisabeth Strömberg, chairperson of the Swedish Swimming Association[8], argued that the gender separate swimming hours should be allowed in order to increase the swimming ability of immigrant women and their children, thereby saving lives (Strömberg, 2015).

However, the view of how gender separate swimming hours affect children diverge. For example, Sakine Madon, political editor of the local newspaper Norran, argued that separating children, as young as nine years old, with the argument of them being uncomfortable with swimming among boys and men amounts to a sexualization of the bodies of children (SVT, 2015:00:42-01:03).

The contention of adult women being more comfortable without the presence of men is also an argument for gender separate swimming hours that has been voiced in the Swedish debate. In a broadcast debate between Sara Mohammad, who initially raised the issue of gender separate swimming, and Natashja Psomas Blomberg[9], a feminist profile and columnist, Blomberg makes an important distinction within the debate. Firstly, there are those supporting gender separate swimming hours in order to accommodate religious and cultural requests and, secondly, there are those in support of gender separate swimming hours since women may feel unsafe among men due to sexual harassment (Nyhetsmorgon, 2016: 03:38-03:50). Although the second aspect of the debate is not the focus for this analysis it is important to include since the arguments are often problematically, albeit perhaps not surprisingly, intertwined. For instance, Nasrin, who swims during the gender separate swimming hours stated in an interview in *Aftonbladet* that "It is not only about religion, it is for me a private and personal matter to expose my body. I feel unsafe among men" (Kazmierska, 2016) [Own translation].

The Christian Democrat party[10] presented a different view. Ebba Busch Thor, the party leader, voiced religious norms as important and which in contemporary society are often silenced. Further, she clearly specified the Swedish religious norms as being of the "Judeo-Christian faith". She claimed that the focus on the Judeo-Christian faith and Western humanism has not been

[8] Svenska Badmästareförbundet
[9] Also known as Lady Dahmer.
[10] Kristdemokraterna.

perceived as compatible with a pluralistic society. Consequently, this has meant a loss, especially in the area of integration. It is this unwillingness to speak of Christian values that has led to the acceptance of gender separate practices in public institutions, a practice deemed by Busch Thor as "legitimizing an unacceptable view of women" (Busch Thor, 2018). Busch Thor argued that those public institutions practicing gender separate swimming hours do not infringe upon the law, however the practice violates the Christian values. Busch Thor claims that a society that had not moved so far away from these values would not have public institutions accepting such practices. (Busch Thor, 2018).

As we have seen, the Swedish debate to a large extent revolves around the principle of gender equality. Both supporters of, as well as those opposing, gender separate swimming hours voice gender equality as a main reason for why it should be, or not, practised. Freedom of religion has been less explicitly expressed in the Swedish debate, apart from by Gencoglu.

The Equality Ombudsman Directives

The Equality Ombudsman is a Swedish government agency responsible for promoting equal treatment of citizens and for combatting discrimination. The Equality Ombudsman's main task is to investigate possible cases of discrimination to determine whether the activity is in line with anti-discriminatory frameworks or not, however, since the decisions lack judicial force and are assumed to act normatively they are more appropriately seen as directives.

In 2016 the Equality Ombudsman released three directives, two concerning the practice in the city of Malmö and one in Stockholm. For reasons of relevance and space limitations, the directive to the municipality of Stockholm will be described in more detail than the directives to the city of Malmö.

The assessment of gender separate swimming hours in Stockholm made by the Equality Ombudsman addressed three public swimming pools, one in the area of Tensta, a second in Skärholmen and a third in the area of Liljeholmen. It should be noted that the swimming centre in Liljeholmen was closed shortly before the directive was published, although for financial reasons and not related to the directive. The main objective of the directive was to consider

whether the gender separate swimming practices infringed upon laws governing the equal treatment of women and men. (The Equality Ombudsman, 2016:2).

Three main differences are of interest in regard to the different public pools:
1) The two swimming pools in Tensta and Skärholmen have gender separate swimming hours only for women, whereas the baths in Liljeholmen have offered gender separate swimming hours once a week for men as well.

2) In Tensta and Skärholmen the staff consists of only women during the women's swimming hours, whilst in Liljeholmen the staff comprises both women and men.

3) The history of the swimming centres, and the reason for them establishing gender separate swimming hours are also different. In Skärholmen and Tensta, the reason for the gender separate practice is explicitly religious and cultural, with the report from the Equality Ombudsman stating that the purpose has been to "[...]enable the participation of women who would, due to religious and cultural purposes, otherwise not participate in swimming activities"(2016:2) [Own translation] . Whereas the official purpose of gender separate swimming pools at Liljeholmen's swimming centre was originally to allow nude swimming on separate days, a practice which was abolished a few years ago (Ibid:2-3).

In accordance with the laws regulating the equal treatment of women and men, the Equality Ombudsman, states that, in the case of Tensta and Skärholmen swimming centres, separate swimming hours are acceptable. The Equality Ombudsman states that an exception of the law regulating equal treatment can be made since it is the only way, in many cases, to increase the exercising and the swimming abilities of women, who for cultural and religious reasons cannot use the swimming centre otherwise. At Tensta swimming centre, 84% of women who swim during the gender separate hours report that they would not go swimming if it were not for the gender separate hours. In Skärholmen swimming centre, the same number is 75%. The report furthermore states that the groups represented during these gender separate hours consist of people with much lower swimming abilities than the general population. (2016:3-7).

In the case of the swimming centre in Liljeholmen, the Equality Ombudsman rules, that since exceptions from the laws regulating equal treatment can only be made to promote another goal or purpose, and no such purpose is specified, the swimming centre in Liljeholmen has breached the law regulating equal treatment. The city of Stockholm should therefore implement necessary changes so as to comply with the legal framework regarding equal treatment. (2016:8).

The two directives in Malmö, in short, states that the practice of hours exclusively for women, as part of an event on the international women's day held several years in a row, are not consistent with the law of equal treatment of men and women. The directive states that an exception could have been made if it was with the purpose of increasing swimming skills or in order to create a more equal participation of men and women, but since this does not seem to be the case and since the proportion of men and women are in general equal, the Equality Ombudsman opposes the practice (2016:2-8). In the separate case of the swimming centre in Rosengård practicing gender separate swimming hours, the Equality Ombudsman states that, in accordance with the freedom of association, it is consistent with the legal framework, since the part of the swimming centre practising gender separate activities is not publicly managed, but free to rent by private associations. In accordance with the EU directive 2004/113/EG, freedom of association permits that participation in private associations are gender exclusive (2017:2-4).

Hence, the directives from the Equality Ombudsman effectively established that exceptions of the law of equal treatment of women and men can be made in order to promote exercising and swimming abilities among women who, for religious or cultural reasons, would otherwise not utilize the swimming centres.

Part III: Are Gender Separate Practices Bad for Women?

This third section aims to contextualize the arguments from the Swedish debate within a liberal discussion on multiculturalism, as well as to analyze the principles of gender equality and freedom of religion.

The Debate in Sweden

It is interesting to note that the person who instigated the Swedish media debate, Sara Mohammad, expressed views similar to those of Okin. Not only does she consider religious practices as often inherently oppressive towards women but also that minority cultures can practice "brainwashing" and are maintained as well by women, quite similarly to the claim of Okin of "co-opted" women.

Gencoglu in her response to Mohammad is one of a few advocating non-interference by the state, emphasizing the liberal state's commitment to liberty of choice and freedom of religion. However, Gencoglu's argumentation is somewhat contradictory. Gencoglu states that in the fight for women's equality, equal pay and freedom of choosing gender separating practices are of equal significance. However, equal pay amounts to enforcing gender-neutral laws and prohibiting discrimination by gender, the very opposite of allowing differentiation of women and men. The aim of the gender-neutral laws is to ensure equal treatment between women and men and ultimately strive for diminishing the differences between what it means to be a woman or a man. The freedom of choosing to swim separately from men does not imply equal treatment to men per se, neither does it diminish gender differences in society.

On the other hand, freedom of religion is also a right, which should be granted to women if we want to ensure equal rights. There is, therefore, the need to distinguish between laws ensuring equal rights through differential treatment, such as is the case with rights granted to pregnant women in the workforce for example, and laws that diminish the differences between being a woman or a man, perhaps with the further purpose of ultimately abolishing gender, as is Okin's aim. This highlights how the two principles stand in stark contrast to each other, since committing to freedom of religion, as is the argument of Gencoglu, means not interfering in how

a minority group should perceive gender roles. This issue is also raised by Kymlicka, "what some minorities desire is precisely the ability to reject liberalism [...]Is this not part of what makes them culturally distinct? If the members of a minority lose the ability to enforce religious orthodoxy or traditional gender roles, have they not lost part of the raison d'être for maintaining themselves as a distinct society?" (1996:154b). We will return to how Kymlicka resolves this question, as for now it is sufficient to say that Gencoglu's argument bears some inherent conflicts.

Gudrun Schyman is similarly one of the few supporting gender separate swimming hours, but for different reasons than those of Gencoglu. Schyman does not once mention freedom of religion as a reason for allowing the gender separated practice, rather it is a "feminist strategy". Consequently, the practise of separating gender cannot be seen, in her perspective, as a long-term solution or aim. Presumably, once the patriarchal structures that Schyman refers to are eliminated there is no longer a reason for continuing pursuing gender separate practices. One can question if this is consistent with the will of each and every woman attending the separate swimming hours. Schyman does not consider that there can be women who, for religious and cultural reasons, wants the practice to remain. The assumption that women will eventually be enlightened, by realizing that their freedom is limited by patriarchal structures, also carries similarities to the liberal critique from Post directed towards Okin regarding her assumption of women being "co-opted" or with "false consciousness".

Additionally, Schyman does not differentiate between private and public, as is the case of the Liberal party's women's association and public swimming centres. One can also question to what extent the practice of gender separate swimming hours is part of a feminist movement, or whether the swimming centres constitute a space where feminist strategies are discussed, contrary to a freely formed women's association within a political party.

As Blomberg acknowledges, supporters of gender separate swimming hours tend mainly to fall within two categories. Firstly, those who are stressing that women may feel unsafe swimming among men and therefore have the right to gender separate swimming hours, and secondly, those who regard it as a right within freedom of religion for women who for cultural or religious reasons want the option of gender separate swimming hours. However, it is problematic to conflate these two arguments as they have distinctly different implications. Women should not

have to accept that swimming with men entails a risk of being sexually harassed as sexual harassment is a criminal offense. Ideally, women should feel safe and not be sexualized when swimming in the presence of men. Ultimately, it may be the case, that gender separate swimming hours is the only available option for women who are experiencing traumatic anxiety due to gender related violence. However, no-one who supports the idea of gender separate swimming hours due to these structural issues argues that it is a desirable long-term solution. Indeed, Blomberg contends, when asked why she is in favour of gender separate swimming hours "Well, I would wish that it was not needed, of course"(Nyhetsmorgon, 03:28-03:32).

In contrast, gender separate practices due to religious or cultural reasons, is neither a short nor a long-term solution, since it is not about "solving" an issue, as Schyman for example suggests, but a commitment to religious tolerance and of granting a minority group special rights in the form of exemptions from the law. Perhaps there is therefore less of a conflict within the Swedish debate than one might initially assume as the argument of equality between the sexes is widely recognized among all parties, including the extra-parliamentary feminist party which is perhaps the only party fully supporting the Equality Ombudsman's decision. Of course, what is covered by the media cannot be expected to be fully representative of all opinions.

Freedom of Religion and Neutrality

Freedom of religion is established in both the Swedish constitutional law, as well as in the European Convention on Human Rights in Article 9 which states that "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance." (European Court of Human Rights, 2019:6). In reference to a court case, Osmanoğlu et Kocabaş v. Switzerland, specifically treating a complaint made by two muslim parents asking for exemptions for their two daughters from the mandatory mixed swimming lessons at a public school the article 9 also includes "[...]protection to traditional practices which are objectively not part of the "core" precepts of an individual religion but which are heavily inspired by that religion and have deep cultural roots." (Ibid:13).

The Swiss parents above mentioned argued that even though "[...]the Koran laid down the precept that the female body was to be covered only from puberty, [...]their faith instructed them to prepare their daughters for the precepts that would be applied to them from puberty onwards." (Ibid:13) and their claim was accepted, however, the Court judgement ultimately ruled that there had been no infringement upon Article 9 and that the domestic authorities had acted within their margins (Ibid:40).

Freedom of Religion is therefore clearly encapsulated in the concept of neutrality, the requirement that the state "should remain neutral between competing conceptions of the good life" and "refrain from favouring any one group over another." (Mendus, 1989:79). Nonetheless, the right to living in accordance to one's own conception of the good must be "consistent, of course, with similar liberties for others" (Ibid:79).

Article 9 also states that "Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."(European Court of Human Rights, 2019:6). In the case of the Swiss parents their rights to withdraw their daughters from mixed swimming lessons does not impede on any, to the family, external person's rights and freedoms. However, preventing someone's presence in a public swimming centre could be seen as a limitation of basic negative liberties.

This overlaps with Lena Andersson's critique of the gender separate swimming hours and of how tolerance is ultimately about respecting differences and "demanding that others should adjust in order for me to practise my individuality is intolerance"(Andersson, 2016). Tolerance, in her view, is about tolerating the coexistence of other people. Andersson also raises the implications that follow from allowing gender separate practices. If we are allowed to dismiss the presence of one social group, namely men, what does that mean in relation to other social groups? Should we then also allow a separation, in public institutions, on the basis of sexuality, in order to accommodate groups that do not tolerate homosexuals? (Ibid.).

We might therefore ask if the outcome of neutrality in this case, similarly to the example raised by Mendus of Sunday trading, actually is neutral to competing conceptions of the good. Additionally, even if we do consider that tolerance requires these kind of exemptions in public facilities, neutrality does not similarly require, or have a clear commitment to, tolerance. If the practice cannot be seen as neutral we must therefore seek its possible justification, as a part of the liberal commitment to tolerance, elsewhere.

Moreover, Mendus claims that it is not possible to know what the neutrality requirement in itself amounts to, [...]nor what it demands of us in practice unless we are able to give an account of its conceptual justification"(Ibid:85). Mendus therefore suggests that the liberal justification for tolerance, and for neutrality itself, might instead be found in the commitment to autonomy, the next section will therefore review the conception of autonomy, although first returning to Okin.

Gender and Autonomy

The debate on gender separate swimming hours in Sweden highlights how politics also transcends into what has traditionally been considered the private sphere. One of Okin's main contributions is to alter the boundaries of what is to be considered political. She acknowledges that her attention to the private sphere is not a domain traditionally approached by liberals but argues that "If we are to be true to our democratic ideals, moving away from gender is essential" (Ibid:172).

However, Okin recognizes that "The pluralism of beliefs and modes of life is fundamental to our society, and the genderless society [...]would certainly not be agreed upon by all as desirable" (Okin, 1989:180). She therefore argues from Rawls' theoretical construct of the original position, that when constructing a theory of justice between the sexes one must take into account people with more traditional views of gender roles and arrange institutions to also include those people who prefer traditional practices. Nevertheless, Okin maintains that it is crucial that a multicultural society protects the vulnerable. She argues that "Without such protection, the marriage contract seriously exacerbates the initial inequalities of those who entered into it, and too many women and children live perilously close to economic disaster and serious social dislocation; too many also live with violence or the continual threat of it."(Ibid:180). In order to

answer the research question of whether gender separating practices in public institutions can be justified within a liberal state, it is necessary to analyze the commitment liberalism actually has in regard to, as Okin wishes, the abolishment of gender roles. As a means of answering this, we will return to the critique of Bhikhu Parekh, outlined in the theoretical framework section.

The first critique regards Okin's material for which she bases her analysis and, according to Parekh, exemplifies the difficulties of judging other cultures. The difficulties of judging other cultures implies that adults should be free to make their own choices. Although, in the case of public institutions one can argue, as does Lena Andersson, that liberalism is not mainly what one is free to do, but of what one is not free to do to others. Public spaces are shared spaces and can therefore arguably be a domain where one does not have the right to limit other people. This can be clarified with the response to the third critique.

Parekhs third critique concerns Okin's definition of sexual equality, which Parekh regards as being too extensive. One can ask if the differentiation, and separation, of the sexes naturally implies sexual inequality. To answer this it might be useful to consider the theories of Yvonne Hirdman, a prominent historian, who also introduced the concept of gender in Sweden. Hirdman argues that women's subordination in society can be explained by two principles. The first principle of what she calls the "gender system" constitutes the separation of the sexes. Hirdman argues that within the dichotomy of femininity and masculinity the segregation taboo is established, that is, women and men are not the same. The second principle is the hierarchy by which man is superior to woman, where the man constitutes the norm in society, the paradigm of the human. The operationalization of the gender system is the "gender contract", a model of separation with clear perceptions of how women and men should interact with each other in different domains. (Hirdman, 1988: 49-51). Hence, based on Hirdman's work, the separation of the sexes cannot be justified within the liberal state if we are to value gender equality.

However, it might be argued, as does Parekh in his second critique, that liberalism does not have a fixed set of fundamentals, such as sexual equality. What if we were to impose all values that we regard as fundamental to liberalism on minority groups? Would that not amount to the same kind of fundamentalism that we condemn in other cultures and religions, and therefore, ultimately, be illiberal? This issue is also acknowledged by Kymlicka, who contends that the

differences in regard to what extent liberal values should be imposed on society have created a difficult conflict within liberalism (1996:156b). Rawls, for example, disengages from the commitment of personal autonomy (Ibid:159b) and defines his liberalism as a "political liberalism", in contrast to the liberalism promoted by John Stuart Mill, which he labelled as "comprehensive liberalism" (Ibid:160b).

Nussbaum, in her critique of Okin, argues that Okin's theories clearly highlights the issue of the relationship between political and comprehensive liberalism. Noting that Okin herself did not explicitly commit to belong to one or the other, Nussbaum argues that Okin promotes comprehensive liberalism, due to her focus on dignity and autonomy through seeing the "fostering of personal autonomy in all areas of life as an appropriate goal of the state" (Nussbaum, 1999:108), thereby resembling the liberalism of John Stuart Mill.

Even though conclusions of Okin's liberalism should be made with caution, it might be appropriate to once again recall the distinction made by Mendus of neutrality and autonomy, although Okin emphasis the importance of neutrality she clearly also adheres to the concept of autonomy. It may be concluded from the perspective of liberalism justified by autonomy, that gender separating practices in public institutions are not justifiable within a liberal state since it might infringe upon the personal autonomy of those women who are not allowed to swim in the presence of men and on the freedom of being oppressed by social norms and customs. From a perspective of comprehensive liberalism it might be added that the practice more generally may infringe upon women's autonomy since it acts counterproductively to the aim of gender equality.

The appeal to autonomy has however generated critique, since, as previously mentioned, it claims more than just basic negative liberties. Mendus highlights the close, and alarming resemblance between theories of positive liberty and autonomy, brought forward by Isaiah Berlin. *Negative freedom* concerns the question: 'What is the area within which the subject – a person or group of persons – is or should be left to do or be what he is able to do or be, without interference by other persons?' (Berlin, 2003:170) *Positive freedom,* concerns the following: "I wish my life and decisions to depend on myself, not on external forces of whatever kind. I wish to be the instrument of my own, not of other men's, acts of will. I wish to be a subject, not an object;

to be moved by reasons, by conscious purposes, which are my own, not by causes which affect me, as it were, from outside." (Ibid:181).

The implications of positive liberty, and of the conflict between negative and positive liberties, lies within ourselves, in that the difference between our "rational" or "autonomous" selves and our impulsive and irrational selves stems from our very nature, as human beings. The question then, is whether we should be allowed to make these irrational decisions if we are, as aforementioned, slaves to our own nature. This raises the problematic implication that coercion could be justified if it helps promote our autonomous self. (Berlin, 2003:180-183).

Even though Berlin's theories of freedom were contextualized within the totalitarian state Gina Gustavsson suggests not only that the notion of negative and positive liberty can be applied to liberal states, but also that the two different dimensions are especially relevant for public debate within liberal states today. (2011:19&33). An important aspect of positive freedom, according to Gustavsson, is that even though a person chooses to act in an "irrational" or "wrong" way, it is still a choice which is enabled by the permission of free will. There will always be, what Gustavsson calls, a "trade-off" between freedom and other values promoted in society. It is therefore not possible, in the same instance, to maximize other values and liberty at the same time. (2011:31-32).

This is also what is implied in Mendus claim that in liberalism the "[...]limits of toleration are to be found by appeal to the concept of autonomy", the commitment to autonomy will ultimately impair the values of tolerance and pluralism since any tolerance towards non-autonomy valuing groups is "merely a temporary expedient against the day when all are autonomous" (Mendus, 1989:108).

Kymlicka, however, argues somewhat differently about this conflict within liberalism. He argues that historically tolerance and autonomy have been seen as "two sides of the same coin" (1996:159). Additionally, he quotes Mendus stating that "What distinguishes *liberal* tolerance is precisely its commitment to autonomy- that is, the idea that individuals should be free to assess

and potentially revise their existing ends"(Ibid:159[11]b). Kymlickas commitment to autonomy is clear in his limitation of "internal restriction".

One can therefore, as Janet E. Halley has done in her response to Okin, question how greatly Okin and Kymlickas opinions concerning group rights actually differ. Halley questions Okin for her choice of responding to Kymlicka since she considers them sharing many core normative commitments, especially regarding the limits of internal restrictions. Halley notes that Kymlicka appears to be just as strict as Okin of how it cannot be justified to grant special group rights to groups that restrict the individual freedom of its own members. Halley therefore suggests that "[...]their disagreement appears to be primarily empirical: Do women's rights conflicts have the gravity and frequency that Okin claims they do, or is Kymlicka's relative inattention to them a good register of their marginality and ready resolvability?" (1999:100). Whereas there is a general conflicting issue between what should be of primal importance: personal autonomy or tolerance, perhaps they could both be said to be represented in Kymlicka's approach to minority rights.

Not only do Kymlicka and Okin share a similar focus on personal autonomy, it might likewise be argued that Okin actually perceives tolerance, as intertwined with autonomy, similarly to Kymlicka. She criticizes the separation of the private and the public, since the division has maintained the subordination of women, by confining them to the private sphere. The vulnerability women face in the private sphere has furthermore been increased by the idea that the state should not interfere. One example, that Okin also notes, is how it is only recently in some, but not all, countries that non-consensual acts between married couples have become criminalized. She therefore opposes the traditional way that liberalism has advocated for minimum interference in the private sphere. This is evident in Okin's critique of Rawls, where she argues that his minimal consideration of the private sphere leads to a dismissal of the inequalities within the family. It follows that Okin would consider tolerance as reliant on autonomy. This is perhaps also what she means when stating that many of the fundamental concepts within liberalism, such as autonomy should be rethought.

[11] Kymlicka, in turn, quotes (Mendus 1989:56).

Lastly, in Parekhs fourth and final critique of Okin, he argues that Okin treatment of multiculturalism as simply something that should be contained within the liberal framework fails to acknowledge the opportunity of multiculturalism being beneficial for women. Whilst this paper has explicitly dealt with the question of how multiculturalism should be "contained" or accommodated within the liberal state, the debate of gender separate swimming hours also highlights the implications of gender separating practices existing in liberal societies and which pre-dates the introduction of other religions than Christianity. However, as the discussion illuminates, it is highly doubtful if the long-term effects of gender separate practices in public institutions can claim any such benefits that Parekh suggests.

The Equality Ombudsman Directives

By citing the need to increase women's, and thereby also children's swimming ability, the Equality Ombudsman's decision in favour of some of the gender separate swimming hours for some of the public swimming centres suggests a depoliticization of the issue. In the case of children, who are naturally more vulnerable, there is the option, which is already practised in many municipalities, of having swimming as a mandatory part of the school curriculum, just as school attendance is mandatory. In so doing, children's swimming abilities are not affected by a family's background, granting everyone the same opportunity of gaining swimming skills.

The question of swimming as part of the mandatory school curriculum brings us back to the case of Osmanoğlu et Kocabaş v. Switzerland, where the Court held that the case involved interference of the parents freedom of religion, nevertheless they considered the pursuit of the interference legitimate since the school aimed at protecting the children from social exclusion and since they had offered flexibility, for example the choice of wearing burkinis (European Court of Human Rights, 2019:40).

An important distinction also has to be made between children and adults. Adults are able to make a choice of not utilizing swimming centres, just as some people choose not to learn the basics of, for example, Cardiopulmonary resuscitation (CPR), which could also save lives. By framing the gender separate swimming hours as nothing but a pragmatic question the full

political implications are ignored, and in effect also other options of how to increase the swimming skills among vulnerable groups.

Additionally, by framing it as nothing but a pragmatic question it is reasonable to ask if there are not other reasons for why gender separate swimming hours could similarly be justified. Within the Swedish media debate some of those supporting, at least as a temporary solution, gender separate swimming hours did so on the basis that women feel unsafe swimming among men.

However, the issue of women feeling unsafe among men was not once mentioned in the directive regarding swimming centres in Stockholm. In the directive concerning swimming centres in Malmö it is mentioned as part of the investigation that not daring could constitute a possible justification for exceptions (The Equality Ombudsman, 2016:3). Nevertheless the Equality Ombudsman ultimately considered there being no such justifiable reasons (Ibid:6-7).

It is very difficult to give a justifiable answer to why increased swimming abilities are of more importance than that women, and people who do not define themselves as men, are to feel safe within public facilities.

It might be added that the Equality Ombudsman published another directive in 2016 concerning public swimming centres. The decision was made after a report from a person defined as non-binary was told to wear something to cover the upper body, since the staff at the swimming centre considered the person to be female, but refused to do so and was made to leave the swimming centre. The Equality Ombudsman stated in the directive, that the swimming centre acted in a discriminatory manner towards the person and that people defining themselves as non-binary have the right to swim with a bare upper body (Svd, 2016).

Not only does this example highlight the diversity of implications of gender in public institutions, such as swimming centres, but also it sheds light on the complicated and ambivalent relationship to gender existing in Swedish society, and the need for self-critical deliberation in order to formulate a theory of justice that incorporates women.

Conclusion

The purpose of this paper has been to analyze the debate on gender separate swimming hours and examine the liberal values of gender equality and tolerance in order to resolve the question of whether gender separating practices in public institutions can be justified within a liberal state. One of the principal findings which the discussion illuminates is the complexity of the question and that it can be analyzed from many different perspectives. However, from a liberal perspective the following conclusions can be drawn:

1) Firstly, the Swedish media debate reveals that the views on gender separate swimming hours are more homogenous then what might at first glance be assumed. A majority of the participants, and all politicians, engaging in the debate emphasise gender equality rather than freedom of religion and therefore argue either that the practice is wrong in the first place or that it is a short term solution to overcome issues such as feeling uncomfortable among men or poor swimming abilities.

2) Secondly, from a point of neutrality, in that the state should act impartially to competing conceptions of the good, it is unclear whether the practice of gender separate swimming hours lives up to this ideal. Since neutrality lacks a clear commitment to tolerance it is therefore not possible to resolve the research question simply from this perspective. Mendus suggests that the commitment for tolerance, and for neutrality itself, might instead be found in the concept of autonomy.

3) Thirdly, however, the liberal commitment to autonomy might both be viewed as what justifies tolerance but also what ultimately limits the scope of tolerance. It is within the appeal to autonomy that Okin argues that there are limits to what special rights we may grant minority groups. Although we should be careful of resorting to coercive means of promoting autonomy it is highly questionable if the exemptions of the law of equal treatment of women and men, which the gender separate swimming practice amounts to, can be justified on the basis of autonomy, especially when the practice might actually work against the pursuit of gender equality.

Lastly, we might, therefore, conclude that *gender separate practices cannot solely be justified on the basis of cultural and religious reasons*. The way in which The Equality Ombudsman has addressed the question, where pragmatic implications take precedence, can therefore be seen as inadequate. This also concerns the minimal attention devoted to alternative reasons for why it might for pragmatic, or other possible reasons be justified to have gender separate practices, such as women feeling unsafe among men. This is, however, a wholly different question which deserves further research.

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